

RUBERT & GROSS P.C.
ATTORNEYS AT LAW
150 Broadway, Suite 712
New York, NY 10038
(212) 608-3103

RICHARD A. GROSS
SOLEDAD RUBERT
ERNESTINE MINGS

June 2, 2016

Honorable Paul G. Gardephe
United States District Court
Southern District of New York
40 Foley Square, Room 2204
New York, New York 10007

Re: Creighton v. City of New York, et al.
12-CV-7454 (PGG) (DCF)

Honorable Judge Gardephe:

We represent plaintiff, Kenneth Creighton, in the instant matter. This letter is submitted to request an extension of time to provide expert exchanges and is in supplement to the joint request submitted by defense counsel to extend summary judgment motion deadlines in light of the fact that discovery just closed with the completion of depositions on May 26, 2016. We have inquired of defense counsel as to whether this further application is on consent but have not yet heard back. As time is of the essence in this application, we are submitting same to Your Honor, noting that we do not know whether it is on consent or not.

Per Your Honor's order, we are to complete expert disclosures by June 6, 2016 (Monday). We have spoken with our police procedures expert who is ready, willing and able to evaluate and provide expert opinion in this action, however, understandably, he advises he must have all depositions in his possession to perform a thorough evaluation and issue an acceptable report under the FRCP. We have been diligently working to obtain all deposition transcripts but, as we held multiple depositions last week, in accordance with the Court's discovery schedule, we have not yet received all transcripts, therefore they are not available for the expert's review. Nor can we use those transcripts in support of plaintiff's proposed motion for summary judgment unless the Court grants the joint request for an extension to submit same.

Our expert indicates his timeframe for the evaluation and report would be five weeks. In light of the above we respectfully request an additional five weeks to provide expert exchanges in this case so that we can have our expert fully evaluate all proof in this case in order to be able to form an opinion based on full and complete information. Such an extension would take us into the second week of July, well in advance of the October trial date set by Your Honor.

We understand the need to move this case forward to its conclusion and are eager to do so as well, and note that the parties have worked with due diligence to complete all discovery and disclosures as directed by Your Honor. We would hope this application is acceptable to the Court

in light of the diligent efforts we have made to complete discovery expeditiously. Thank you for your consideration.

Respectfully submitted,

/s/

Richard Gross

cc: Kavin Thadani (via ECF)